

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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THOMAS D. GILLIS, )  
vs. )  
SPX CORPORATION INDIVIDUAL ACCOUNT )  
RETIREMENT PLAN and SPX RETIREMENT )  
ADMINISTRATIVE COMMITTEE, )  
Defendants )  
\_\_\_\_\_  
Plaintiff )  
\_\_\_\_\_  
vs. )  
SPX CORPORATION INDIVIDUAL ACCOUNT )  
RETIREMENT PLAN and SPX RETIREMENT )  
ADMINISTRATIVE COMMITTEE, )  
Defendants )  
\_\_\_\_\_  
)

Civil Action No.: 03-12389-GAO

**MOTION FOR LEAVE TO FILE RESPONSE TO DEFENDANTS'**  
**NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff, Thomas D. Gillis (“Mr. Gillis”), hereby respectfully requests that the Court grant him leave to file a short (three-page) response to Defendants’ Notice of Supplemental Authority which was filed on September 1, 2006 (docket no. 36). Mr. Gillis’s proposed response is attached hereto as Exhibit A.

In support of this motion Mr. Gillis states: Defendants’ “Notice” brought to the Court’s attention a Seventh Circuit case, *Cooper v. IBM Personal Pension Plan et al.*, \_\_ F. 3d \_\_, 2006 WL 2243300, No. 99-829-GPM (Aug. 7, 2006), which was decided subsequent to oral argument on the cross motions for summary judgment in the present case. Defendants’ “Notice” did not simply notify the Court of the decision, however, but contained several pages of argument about how the *Cooper* case supposedly supports their position in the present action. Mr. Gillis simply requests an opportunity to respond to Defendants’ arguments and explain to the Court how the *Cooper* case actually supports his claims.

WHEREFORE, Mr. Gillis respectfully requests that the Court grant the instant motion and permit him to file the attached Memorandum to Supplement Plaintiff's Summary Judgment Record to Address Seventh Circuit Case.

Respectfully submitted,  
Plaintiff,

**THOMAS D. GILLIS**  
By his attorneys,

/s/ Michael P. Twohig

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Dated: September 8, 2006

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

I, Michael P. Twohig, counsel for plaintiff Thomas D. Gillis, hereby certify that I conferred with Andrew W. Vail, counsel for defendants, via telephone on September 7, 2006, regarding this motion. I further certify that the parties were unable to reach agreement with respect to the relief requested in this motion.

/s/ Michael P. Twohig  
Michael P. Twohig

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorneys of record for each other party through the Court's electronic filing system on September 8, 2006.

/s/ Michael P. Twohig  
Michael P. Twohig